

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNION INSURANCE COMPANY,

Plaintiff,

vs.

POCKETINET COMMUNICATIONS,
INC; and DAVID MADRIGAL,

Defendants.

Cause No.

COMPLAINT

Plaintiff Union Insurance Company (“Union”) states and pleads as follows:

I. PARTIES

1.1 Union is an Iowa corporation with its principal place of business in Iowa.

1.2. On information and belief, Defendant PocketiNet Communications, Inc. (“PocketiNet”) is a Washington corporation with its principal place of business in Washington State.

1.3. On information and belief, Defendant David Madrigal is a citizen of

1 Washington State. (PocketiNet and Mr. Madrigal will be referred to collectively
2 as “Defendants.”)

3 II. JURISDICTION AND VENUE

4 2.1 This action is between citizens of different states.

5 2.2 The amount in controversy exceeds the sum or value of \$75,000,
6 exclusive of interest and costs, as set forth more particularly below.
7

8 2.3 This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

9 2.4 An actual justiciable controversy exists between Union and
10 Defendants within the meaning of 28 U.S.C. § 2201, *et seq.* regarding the scope
11 and extent of insurance coverage provided under the Union policy, as set forth
12 more particularly below.
13

14 2.5 Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that
15 a substantial portion of the events giving rise to the insurance claim occurred in
16 this District.

17 III. GENERAL ALLEGATIONS

18 3.1 Union issued policy No. RUP 3134292-24, with a policy period of
19 June 13, 2020 to June 13, 2021, to PocketiNet (the “Policy”). A certified copy of
20 the Policy is **Exhibit 1** (with redactions). Mr. Madrigal is an excluded driver
21 under a named driver exclusion in the Policy.
22

23 3.2 Defendants were sued in the underlying lawsuit of *Kruschke v.*

1 *Madrigal, et al.*, Franklin County Superior Court No. 23-2-50802-11
2 (“Underlying Lawsuit”). A copy of the Complaint in the Underlying Lawsuit is
3 **Exhibit 2** hereto. Plaintiff in the Underlying Lawsuit alleges that, as a direct and
4 proximate result of Defendants’ negligence, she has suffered severe physical
5 injuries including but not limited to traumatic brain injury, paralysis, orthopedic
6 injuries, scarring and mental and emotional injuries.
7

8 3.3 Union is defending Defendants in the Underlying Lawsuit under a
9 reservation of rights under the Policy.

10 3.4 Plaintiff in the Underlying Lawsuit has demanded \$2.5 million to
11 settle, having evaluated the value of her claim at \$2.5 million to \$3 million.
12

13 **IV. CLAIM FOR DECLARATORY RELIEF**

14 4.1 Union incorporates by reference the allegations of all paragraphs
15 above as if fully alleged herein.

16 4.2 In accordance with 28 U.S.C. §2201, Union seeks a ruling from this
17 Court that the Policy does not provide coverage for the Underlying Lawsuit.
18

19 4.3 An actual justiciable controversy exists between Union and
20 Defendants concerning whether there is insurance coverage under the Policy for
21 the claims asserted in the Underlying Lawsuit.

22 4.4 The Policy does not provide coverage for the claims in the
23 Underlying Lawsuit because Mr. Madrigal is an excluded driver.

V. RESERVATION OF RIGHT TO AMEND

5.1 Union reserves the right to amend its complaint, in whole or in part, as it obtains additional facts through investigation and discovery.

VI. PRAYER FOR RELIEF

6.1 Wherefore, Union prays for judgment as follows:

- (a) That the Court render declaratory judgment in favor of Union;
- (b) That the Court declare the rights, duties, obligations, status and other legal relations of the parties, including a declaration that there is no insurance coverage under the Policy, that Union has no duty to defend or indemnify for the claims in the Underlying Lawsuit, that Union may withdraw from the defense of the Underlying Lawsuit;
- (c) That the Court declare that Union is entitled to reimbursement of defense costs as provided for in the Policy;
- (d) For all of Union's costs and disbursements incurred herein;
- and
- (e) For such other relief as the Court may deem just and proper.

DATED this 7th day of November, 2023.

SOHA & LANG, P.S.

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